**PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re Application of:<br>Sergey M. Dzekunov et al. | Group Art Unit: 1636 |
| Serial No.: 10/751,586 | Examiner: Ketter, James S. |
| Filed: January 5, 2004 | Atty. Dkt. No.: MAXC:013USD1 |
| For: APPARATUS AND METHOD FOR ELECTROPORATION OF BIOLOGICAL SAMPLES | Confirmation No.: 3107 |

CERTIFICATE OF ELECTRONIC SUBMISSION

DATE OF SUBMISSION: December 7, 2006

## COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

**MAIL STOP ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This paper is being submitted in response to the Notice of Allowance mailed on September 19, 2006. The three month date for responding is December 19, 2006.

### A. Applicants' Comments on Statement of Reasons for Allowance

Applicants agree with the Examiner that the subject matter of the pending claims is allowable over the art made of record. As observed by the Examiner, the instant specification at page 72, first paragraph, notes that lentiviral production in the art was accomplished by relatively inefficient transfection methods, such as $CaPO_4$ transfection. The Examiner further notes that flow electroporation solves this problem. Applicants believe that the Examiner's comments do not reflect the full scope of the claimed invention. Applicants would like to point out that

independent claim 142, which is directed to a method of producing a retroviral vector or a lentiviral vector, is not limited to flow electroporation. Rather, claim 142 recites, in part, "transfecting a cell by electroporation." Claim 148, which depends from claim 142, further specifies that the electroporation is flow electroporation.

Applicants would like to further point out that independent claim 130 is directed to a method of producing an infectious vector. Claim 132, which depends from claim 130, further specifies that the infectious vector is a lentiviral vector. Claim 130 recites, in part, "transfecting a cell by flow electroporation." As described in the instant specification, flow electroporation utilizes a flow electroporation chamber within an electroporation system that is designed to permit an inflow and outflow of samples, but it does not require that the sample be in motion in the flow electroporation chamber at the time the sample is subjected to an electrical field (*see e.g.*, p. 14, ln. 31-34; p. 33, ln. 26-29). For example, as described on page 34, a cell suspension may be pumped into the flow electroporation chamber and electric pulses applied to the cells, but it is not required that the cells be moving at the moment they are subjected to the electric pulses, and the cells then flow out of the flow electroporation chamber and are collected in the designated containers (p. 34, ln. 6-14). Flow electroporation is therefore distinguished from systems that use electroporation chambers designed for static use only (Specification, p. 10, ln. 5-8).

**B. Conclusion**

Applicants believe that the present claims are allowable and request that they proceed to issuance. No fees under 37 C.F.R. §§ 1.16 to 1.21 are believed to be due in connection with the instant paper. Should the Commissioner determine otherwise, please consider this paragraph

such a request and authorization to withdraw the appropriate fee from Fulbright & Jaworski Deposit Account No. 50-1212/MAXC:013USD1.

The Examiner is requested to contact Applicants' representative with any questions or comments concerning this application.

Respectfully submitted,

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